

Senate Bill No. 1690

CHAPTER 677

An act relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 2002. Filed
with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1690, Margett. Criminal procedure: persons committed to medical facilities: study.

Existing law establishes procedures for determining a person found not guilty by reason of insanity has been restored to sanity, and procedures for placing persons who have been committed to medical institutions by criminal procedures to obtain outpatient status.

This bill would direct the State Department of Mental Health to undertake a study regarding the application and impact of those procedures, and the potential advantages and disadvantages of certain proposed procedures, as specified. This bill would require a report to the Legislature not later than January 1, 2004.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. (a) The State Department of Mental Health, in collaboration with representatives from the Judicial Council, district attorneys, public defenders, local mental health agencies, the counties, and mental health advocates shall undertake a study of the current application and impact of the process described in Section 1026.2 of the Penal Code pertaining to how persons found not guilty by reason of insanity are judicially restored to sanity. This study shall examine, but not be limited to, the following issues, from the standpoint of the existing or potential impact on both government processes and on patients affected by this section:

(1) The current use of and practices for applications brought pursuant to Section 1026.2 of the Penal Code, including, but not limited to, how many applications are brought annually statewide and by county, the disposition of these applications, the estimated costs of handling these applications, and how many times applicants previously have filed applications pursuant to Section 1026.2 of the Penal Code.

(2) The incidence of frivolous applications, as determined by objective criteria identified in the study.

(3) The potential advantages and disadvantages of increasing the minimum time for inpatient status from 180 days to 365 days, or any other increase contemplated or recommended by the study.

(4) The potential advantages and disadvantages of requiring that the local mental health director, or his or her designee, concur in the restoration of sanity.

(5) The potential advantages and disadvantages of requiring that a patient cooperatively, continuously, and regularly engage in treatment plans provided by both the state hospital and the local conditional release program staff while in inpatient treatment.

(6) The potential advantages and disadvantages of increasing the current one-year time period for filing an application for a restoration of sanity hearing after a denial to up to five years, or any other increase contemplated or recommended by the study.

(7) Any cost avoidance, including for counties, courts, prosecutors, defense attorneys, mental health, or others for cases that do not result in a significant number of days that an applicant spends in the conditional release program.

(b) The State Department of Mental Health shall complete a written report comprised of the study required by this section, and provide a copy of it to the Legislature, no later than January 1, 2004.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate implementation of corrective procedures regarding outpatient and restoration of sanity procedures, it is necessary that this act take immediate effect.

